

TITLE 8: DEVELOPMENT CODE
DIVISION 3: PROCEDURES
CHAPTER 1: GENERAL PROCEDURES.
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Article 1: Introduction.

The provisions of Division 3 of the Development Code contain the procedures necessary to adopt, implement or amend the San Bernardino County General Plan, Development Code, the Official Land Use Plan, Specific Plans and to process development proposals in any land use district.

Readopted Ordinance 3341 (1989)

83.010105 Organization.

(a) The Development Code utilizes five (5) basic procedures to review all types of applications: Public Hearing, Design Review, Administrative Review, Staff Review with Notice and Staff Review Without Notice. Chapter 1 describes each of the five (5) procedures and then follows with the application provisions common to each.

(b) Chapter 2 describes each policy development application type and the provisions of this Title unique to that application type as well as the reviewing authority for each. The types of policy development applications appear in the following order:

- (1) General Plan Amendment.
- (2) Amendment of Development Code.
- (3) Specific Plan Adoption and Amendment.
- (4) Agricultural Preserves/Land Conservation Contract Actions.

(c) Chapter 3 describes each land use and design application type and the provisions of this Code unique to that application type as well as the reviewing authority for each. The types of land use applications appear in the following order:

- (1) Conditional Use Permit.

- (2) Planned Development Review.
- (3) Land Use Compliance Review.
- (4) Occupancy Verification. (Reserved)
- (5) Certificate of Land Use Compliance.
- (6) Special Use Permit.
- (7) Temporary Use Permit.
- (8) Sign Location Plan.
- (9) Variances.
- (10) Flood Hazard Development Review.
- (11) Pre-Construction Inspection.

(d) Chapter 4 describes each division of land application type and the provisions of this Code unique to that application type as well as the reviewing authority for each. The types of land use applications appear in the following order:

- (1) Tentative and Final Map.
- (2) Parcel Maps and Minor Subdivisions.
- (3) Vesting Tentative Map.
- (4) Composite Development Plan.
- (5) Lot Line Adjustments.
- (6) Lot Mergers.
- (7) Reversions to Acreage.
- (8) Certificate of Subdivision Compliance.
- (9) Official Maps.
- (10) Resident Initiated Mobile Home Park Conversion.

Readopted Ordinance 3341 (1989); Amended Ordinance 3427 (1990)

Article 2: Basic Review Procedures.

83.010205 Public Hearing.

(a) Public Hearing procedures are distinguished by a formal open forum for public review of a proposal. During the course of the public hearing, the reviewing authority invites public testimony for and against the land use proposal, reviews evidence and then renders its decision.

(b) Public Hearing procedures shall be used to give all interested parties an opportunity to review the evidence and to state their relative positions in a common public forum before the reviewing authority.

Readopted Ordinance 3341 (1989)

83.010210 Development Review.

(a) Development review procedures include evaluation of proposals at a scheduled meeting of the Development Review Committee (DRC).

(b) The DRC meeting allows informal discussions between the applicant, County staff and others regarding the design and proposed conditions for a given proposal. The DRC provides a recommendation to the reviewing authority.

Readopted Ordinance 3341 (1989)

83.010215 Administrative Review.

(a) Administrative Review procedures are distinguished by a written or published notice given to affected and interested parties followed by a decision by the reviewing authority. The notice shall be designed to insure that all interested parties are aware of the pending decision and are given a chance to comment before the reviewing authority renders its decision.

(b) Administrative Review procedures shall be used to permit the reviewing authority to render a decision without the delay and expense of a public hearing.

Readopted Ordinance 3341 (1989)

83.010220 Staff Review With Notice.

Staff Review With Notice procedures are distinguished by land use decisions which are based upon specific findings or conditions which limit the discretion of the reviewing authority.

Readopted Ordinance 3341 (1989)

83.010225 Staff Review Without Notice.

(a) Staff Review Without Notice procedures are distinguished by land use decisions made by the reviewing authority based upon standards that have been adopted by the County as law or as policy.

(b) Staff Review Without Notice procedures shall be used when sufficient standards have been adopted by the Planning Commission or the Board of Supervisors to allow the reviewing authority to render a decision without giving notice to surrounding property owners and other parties.

Readopted Ordinance 3341 (1989)

Article 3: Application Procedures.**83.010305 Applications For Land Use Decisions.**

Applications for all land use decisions shall be made at the offices of the reviewing authority on forms supplied by that authority. Each application for a land use decision shall be accompanied by such information and materials deemed necessary to render the requested land use decision before such application is deemed complete and accepted for filing. Any application made under the provisions of the Development Code may be initiated by the Board of Supervisors, or by any interested party unless otherwise indicated in this Title.

Readopted Ordinance 3341 (1989); Amended Ordinance 3374 (1990)

83.010310 Environmental Review.

(a) All land use applications that are subject to the California Environmental Quality Act (CEQA) shall be reviewed by the Office of Planning as provided for in San Bernardino County Environmental Review Guidelines.

(b) Prior to taking an action to approve a land use application that is subject to CEQA, the Planning Agency shall make one or more environmental findings. The environmental finding(s) is required in addition to the findings specified in this Division for each application type.

Readopted Ordinance 3341 (1989)

83.010315 Concurrent Applications.

When more than one (1) land use decision is required for a single project, all applications may be filed concurrently.

Readopted Ordinance 3341 (1989)

83.010320 Application Forms and Information Packets.

(a) Each land use application Forms and Information Packet shall include a list of the information and materials required for the application to be considered complete under Section 83.010405, below.

(b) Any application for a land use decision which does not contain the required information and materials, or which is not accompanied by the appropriate application fee, may be rejected as incomplete by the planning agency as provided in Section 83.010405, below.

Readopted Ordinance 3341 (1989); Amended Ordinance 3427 (1990)

83.010325 Preapplication Review.

When the complexity of a land use application warrants it, the designated reviewing authority or the office given responsibility for accepting the land use application may require that the applicant submit materials and attend necessary conferences or hearings to conduct a preliminary review of a development proposal prior to the acceptance of the application.

Readopted Ordinance 3341 (1989)

83.010330 Notice of Pending Land Use Decisions.

(a) Upon receipt of a request for a land use decision that utilizes the Public Hearing, Administrative Review, Design Review or Staff Review With Notice procedures, the reviewing authority shall cause notice to be given specifying the time and place at least ten (10) calendar days prior to the date of the scheduled land use decision by the following applicable methods:

(1) Notice shall be published once in a newspaper of general circulation in the respective community of the proposal for the following land use decisions using the Public Hearing procedure:

(A) Subdivisions, where a tentative and final map are required.

(B) Development Code amendment.

(C) General Plan map amendments.

(D) Amendments to the text of the General Plan or a specific plan.

(2) Notice shall be given by first class mail to any person who has filed a written request for a specific application.

(3) Notice shall be given by first class mail or delivery to all surrounding property owners for land use decisions using the Public Hearing, Administrative Review or Development Review procedures.

(4) Notice shall be given by first class mail or delivery to all contiguous property owners for land use decisions using the Staff Review With Notice procedures.

(5) Notice shall also be given, as required by Section 66451.3 of the California Government Code, in the case of a conversion of residential real property to a condominium project, community apartment project or stock cooperative.

(6) Notice may be given in such other manner as is deemed necessary or desirable.

(b) Said notice shall include sufficient information to give those receiving the notice a reasonable opportunity to evaluate the implications of the proposal and to participate in the decision making process. Furthermore, notices for land use decisions involving subdivisions for which a tentative and final map are required shall inform the recipient of his or her right to request, prior to the noticed land use decision date, that the proposal be reviewed by the County under the Public Hearing procedures.

(c) A one-eighth (1/8) page legal display advertisement in a newspaper of general circulation may be substituted for individual property owner notice whenever the individual notice would require notification of more than one thousand (1,000) property owners.

(d) Ownership and addresses of surrounding and contiguous properties shall be determined from the latest equalized tax assessment role or from other records of the County Assessor or County Tax Collector, whichever contains more recent information.

(e) During the public hearing, items which are continued by the reviewing authority to a specific date, shall not be re-noticed unless specifically requested by the reviewing authority.

Readopted Ordinance 3341 (1989); Amended Ordinance 3374 (1990)

83.010335 Conditions Of Approval.

In approving an application for a land use decision, the reviewing authority may establish reasonable conditions to its approval that are found to be necessary to protect the public health, safety and general welfare that are consistent with the County General Plan and the provisions of this Code.

Readopted Ordinance 3341 (1989)

83.010340 Revisions.

Minor modifications of the conditions of approval or project design for a conditionally approved development project may be revised by the Planning Officer through the Staff Review Without Notice procedure. However, should the Planning Officer determine that the modification(s) may be controversial, the requested modification shall be referred back to the reviewing authority who required the condition(s). Those review procedures which were applicable when the conditions requested to be modified were originally imposed, shall be used for such modifications.

Readopted Ordinance 3341 (1989)

83.010345 Automatic Conditions.

Any development project defined in Government Code Sections 65927 and 65928, which is automatically approved pursuant to California Government Code Section 65956, shall be approved subject to the following standard conditions:

(a) The development project must be a permitted use in the applicable land use district.

(b) The development project must be consistent with the General Plan.

(c) The development project must comply with the public health, safety and welfare requirements of other public agencies. These agencies include, but are not limited to, the County Departments of Environmental Health Services, Transportation and Flood Control and the Office of Building and Safety.

(d) Any automatic approval of a development project shall become null and void unless all conditions imposed by this section have been complied with, and the occupancy, use of the land, and use of the proposed or existing structures authorized by such automatic approval, has taken place within thirty-six (36) months after the date of the automatic approval.

Readopted Ordinance 3341 (1989)

83.010350 Extension and Expiration of Land Use Decisions.

Any conditional land use decision made in accordance with the provisions of this Code shall be subject to the following time limitations:

(a) Unless all conditions have been complied with and the occupancy, use or division of land authorized by the land use decision has taken place or been recorded within thirty-six (36) months after the day the land use decision becomes effective, the land use decision shall become null and void.

(b) Planned Development: Notwithstanding the above provisions of this section, a conditionally approved Planned Development for a phased project shall be subject to a time limitation not to exceed that specified by the condition of approval for the Development Plan approval. The applicant, however, shall either record a tract map or obtain building permits for at least one (1) phase of the project within five (5) years of the development plan conditional approval and, as applicable, within each succeeding five (5) year period. Each five-year period shall begin with the last County approved action that was accomplished (i.e., record a tract map, obtain a building permit).

(c) Where circumstances warrant, the Planning Agency or such other agency, department or person designated by the reviewing authority, may grant an extension of time for a period or periods not to exceed a total of thirty-six (36) months. The time limits provided in the State Subdivision Map Act shall apply to all projects subject to the Act. Under exceptional or extraordinary circumstances, another extension may be granted at the discretion of the Reviewing Authority for projects other than those regulated by the State Subdivision Map Act. The findings then required to approve such a permit must be made prior to approving an extension for that permit. All such extensions must be found to be consistent with the provisions of the General Plan and the San Bernardino County Code. This subsection shall not be applied to extend the time limits provided in subsection (b), above.

(d) A request for an extension of time shall be filed at least thirty (30) days and no more than ninety (90) days prior to the expiration date of an application. Any land use application for which an extension request has been filed within this time period shall not expire for sixty (60) days or until an action is taken upon the extension request, whichever occurs first. If approved, an extension shall commence on the expiration date, even if it is not approved until after the expiration date.

(e) Public projects shall not be subject to a time limitation unless specific time limits are included within conditions placed upon the project's approval. When time limits are placed on the conditional approval of a public project, extensions of time may be granted whenever warranted provided that no single extension shall be greater than twelve (12) months.

Readopted Ordinance 3341 (1989); Amended Ordinance 3374 (1990); Amended Ordinance 3616 (1995); Amended Ordinance 3815 (2001)

83.010355 Revocation or Modification of Permits or Variances.

(a) Any permit or variance issued or approved in accordance with this Title may be revoked or modified upon finding that one or more of the following conditions for revocation exist:

- (1) The use is being conducted in violation of the terms or conditions of the permit or variance.
- (2) The use is being exercised in violation of any statute, ordinance, law or regulation.
- (3) The approval of the permit or variance was based on inaccurate or misleading information.
- (4) The use is exercised so as to be detrimental to the public health, safety or general welfare, or is a public nuisance.
- (5) The use for which such approval was granted is not being exercised.
- (6) The use for which the permit was granted has ceased or has been suspended for one year or more.

(b) Revocation Procedure: A public hearing before the Planning Commission shall be used to process the revocation or modification. A Notice of Revocation and/or Modification and a copy of the findings shall be sent to the permittee at least thirty (30) days prior to the public hearing. Public notice shall be given in accordance with the provisions of Section 83.010330 of this division. If a revocation is ordered, the Planning Commission may provide for a reasonable period of time to amortize any lawful existing uses on the site. Extensions of this time period may be granted for good cause shown on later application to the reviewing authority by any affected person.

(c) The revocation or modification of a permit is appealable as provided in Article 6 of Chapter 1 of this division.

Adopted Ordinance 3871 (2002)

Article 4: Time Limitations.

83.010405 Time Limits For Accepting Land Use Applications As Complete.

(a) Pursuant to California Government Code Section 65943, no later than thirty (30) days after the County has received an application for a development project, the County shall determine, in writing, whether the submitted application materials are complete and shall immediately transmit such determination to the applicant. Upon receipt of any resubmittal of the application, a new thirty (30) day time period shall begin during which time the County is to determine the completeness of the application. If the application, together with these submitted materials are determined not to be complete, the applicant may appeal the decision to require additional information to the

Planning Commission Subcommittee. If the final written determination on the appeal is not made within sixty (60) days, the application with the submitted materials shall be deemed complete.

(b) The Planning Agency and the applicant may mutually agree to a reasonable extension of these time limits.

(c) Applications which depend on approval of another enabling application (e.g. General Plan Amendments), shall not be considered accepted until the effective decision date for the enabling application(s). Such dependent applications may, however, be accepted for preapplication review to allow concurrent processing and thereby streamline the review process.

Readopted Ordinance 3341 (1989)

83.010410 Time Limit For Land Use Review and Decisions.

Except for legislative acts of the Board of Supervisors, the Planning Agency shall render its decision on a land use application within the following time limits, or the application shall be deemed approved in accordance with State law:

(a) If a Negative Declaration is prepared or if the project is exempt from Division 13 (commencing with Section 21000) of the California Public Resources Code, the project shall be approved or disapproved within six (6) months from the date on which an application requesting approval of the project has been received and accepted as complete by the Planning Agency.

(b) If an Environmental Impact Report (EIR) is prepared, pursuant to Section 21100 or 21151 of the California Public Resources Code, the project shall be approved or disapproved within one (1) year from the date on which an application requesting approval of the project has been received and accepted as complete by the Planning Agency.

(c) Pursuant to California Public Resources Code Section 21151.5, should compelling circumstances justify additional time beyond one hundred five (105) days to complete a Negative Declaration or beyond one (1) year to complete and certify an Environmental Impact Report, then a reasonable extension of time may be granted by the Planning Agency if the project applicant requests or consents to such an extension, subject to the following provisions:

(1) In the case of an Environmental Impact Report, pursuant to California Government Code Section 65950.1, the Planning Agency shall approve or disapprove the project within forty-five (45) days after certification of the Environmental Impact Report for a tentative map or parcel map, and ninety (90) days after the certification of the Environmental Impact Report for all other types of development projects.

(2) In the case of a Negative Declaration, a reasonable extension of time shall not exceed the six (6) months and an additional ninety (90) days referenced in California Government Code Sections 65950 and 65957 for all development projects. Provided however, subdivisions shall be subject to the time limits specified in Division 8, unless a waiver has been obtained in accordance with Subsection (d) below to allow for such an extension of time.

(d) The Planning Agency shall approve, conditionally approve, extend or disapprove a tentative map, tentative parcel map, or minor subdivision plot plan or a proposed subdivision within fifty (50) days after certification of the environmental impact report, adoption of a negative declaration, or a determination that the project is exempt from CEQA requirements. These time limits or any other time limits for reporting and acting on maps may be extended by mutual consent of the subdivider and the Planning Agency. Upon consent of the subdivider, a waiver of any of these time limits may be obtained for the purpose of permitting concurrent processing of related land use applications or an environmental review on the same development project or subdivision.

(e) When a land use application decision is contingent upon approval of another application or ordinance which requires legislative action (e.g., General Plan Amendment, ordinance, etc.), the time limits specified by Subsection (a) above, for acting on such a land use application, shall commence on the effective date of the last such legislative action on which that land use application is contingent.

(f) First Amendment Protected Businesses.

(1) The Planning Director shall accept as complete, or deny as incomplete, the application for a Conditional Use Permit (CUP) for a business protected by the First Amendment within thirty (30) days from the date on which an application is submitted to the Director. The Planning Director shall approve or disapprove the completed CUP application within ninety (90) days of its acceptance as complete by the Director. The time limit established by this section may be extended once for a period not to exceed ninety (90) days upon consent of the Planning Director and the applicant.

(2) If the permit requested is for a development project for construction or reconstruction subject to the Permit Streamlining Act (Government Code § 65920 et seq.), the time limits provided in the Permit Streamlining Act shall apply to the Conditional Use Permit approval or denial.

(3) Upon the filing of an appeal, the Planning Commission or the Board of Supervisors shall render its decision on the appeal within sixty (60) days.

Readopted Ordinance 3341 (1989); Amended Ordinance 3427 (1990); Amended Ordinance 3465 (1991)

83.010415 Effective Date of Land Use Decisions.

(a) Unless appealed, land use application decisions become effective as follows:

(1) The effective date of a land use decision which is made by adoption of an ordinance shall be in accordance with state law governing the effective date of ordinances.

(2) Land use decisions, made at public hearing by the Planning Agency other than decisions made by the Board of Supervisors shall be effective eleven (11) days after the action of the Planning Agency, except when the tenth (10th) such day is not a County business day. In such instances, the land use decision shall become effective on the second consecutive County business day following such tenth (10th) day.

(3) Land use decisions not made at a public hearing by a reviewing authority become effective eleven (11) days after the written notice of the land use decision has been deposited in the U.S. mail, except when the tenth (10th) such day is not a County business day. In such instances the land use decision shall become effective on the second consecutive County business day following such tenth (10th) day.

(4) Decisions regarding a request for the extension of time for a period beyond that granted by an approved land use application shall become effective sixteen (16) days after the written notice of such a decision has been deposited in the U.S. mail or after the action has been taken by the Planning Agency at a public hearing, except when the fifteenth (15th) such day is not a County business day. In such instances, the decision shall become effective on the second consecutive County business day following such fifteenth (15th) day.

(b) Land use application decisions which are made contingent upon the approval of another application or ordinance requiring legislative action (e.g., General Plan Amendment, ordinance, etc.) shall become effective on the date when the approval of the last such application which they are subject becomes effective.

Readopted Ordinance 3341 (1989); Amended Ordinance 3688 (1997)

Article 5: Decision By Reviewing Authority.

83.010505 Referral To Next Succeeding Reviewing Authority.

(a) A reviewing authority may refer a request for a land use decision to the reviewing authority designated as the appeal body for that type of land use application.

(b) Notwithstanding the provisions of Subsection (a), the Planning Commission shall make its recommendation to the Board of Supervisors or shall state the reasons why it cannot do so.

(c) An applicant for a land use decision may waive his option for a decision by any reviewing authority other than the Planning Commission and request that his application be reviewed by the appeal body for that type of land use application.

(d) Any land use decision made by the Planning Commission as a result of a referral in accordance with the provisions of this section shall be made at a public hearing.

(e) All land use decisions which require a legislative act prior to their approval or denial shall be referred to the Board of Supervisors for final action.

Readopted Ordinance 3341 (1989)

Article 6: Appeals.

83.010605 Appeal of a Land Use Decision.

Prior to its effective date, any land use decision made in accordance with the provisions of this Code by a reviewing authority other than the County Board of Supervisors may be appealed by the applicant or other affected party, as follows:

(a) The Planning Officer's decision to require preparation of an Environmental Impact Report (EIR) is subject to appeal to the Planning Commission for final decision.

(b) The Planning Commission shall consider appeals regarding land use decisions made by any County agency, department, office, official or officer.

The Planning Commission may refer consideration of an appeal to the Board of Supervisors, except for those decisions involving only a variance, determination as to the completeness of an application, the determination to approve or deny a Home Occupation Permit or the requirement for preparation of an Environmental Impact Report. In these instances the Planning Commission decision shall be the final and conclusive decision. The Board of Supervisors will not accept nor consider an appeal of these Planning Commission decisions.

(c) The Board of Supervisors shall consider appeals regarding land use decisions made by the Planning Commission, except as specified above.

(d) The Board of Supervisors shall only conduct hearings regarding an EIR or other environmental action in conjunction with consideration of the subject land use application and project for which the EIR was prepared or other environmental action proposed.

Readopted Ordinance 3341 (1989); Amended Ordinance 3825 (2001); Amended Ordinance 3966 (2005)

83.010610 Application For The Appeal Of A Land Use Decision.

Applications for an appeal of a land use decision shall be made on forms supplied by the reviewing authority to which the appeal is being made. Applications for appeals shall be accompanied by a written statement of the grounds upon which the appeal is based. A uniform fee, as established by the Board of Supervisors, shall be paid to the County upon the filing of each appeal. The appeal application shall identify (1) the subject land use application, (2) the specific decision, condition of approval or other matter being appealed, (3) the date of such action, (4) the justification for the appeal and, (5) any remedy or solution for which the appellant petitions. A properly filed application for appeal stays proceedings in the matter appealed until a decision is rendered on the appeal.

Readopted Ordinance 3341 (1989)

83.010615 Time For Filing An Appeal.

The Planning Officer or, in the case of an appeal to the Board, the Clerk of the Board of Supervisors, shall be notified by the appellant of an appeal of a land use application decision prior to the date on which such land use application decision becomes effective. The appellant shall submit at the time of such notification, or on the next County business day following such notification, an application for the appeal.

Readopted Ordinance 3341 (1989)

83.010620 Notice Of Appeal.

Within thirty (30) days of the acceptance of an application for an appeal of a land use decision, the County Office of Planning or the Clerk of the Board of Supervisors shall set the matter for hearing and shall give notice of the date, time and place of the hearing to the appellant, the applicant, and to any other party who has requested in writing to be so notified. In addition, notice shall also be given in the same manner as notice was given for the land use decision being appealed.

Readopted Ordinance 3341 (1989)

83.010625 Authority Of Appeal Body.

Upon hearing the appeal, the appeal body shall consider the record and such additional evidence as may be offered, and may affirm, reverse or modify, in whole or in part, the decision appealed. The appeal body is subjected to all of the criteria, findings, and requirements imposed by this Code upon the original decision maker.

Readopted Ordinance 3341 (1989)

83.010630 Withdrawal Of Appeal.

An appeal may be withdrawn prior to the time that the reviewing authority issues a decision. The applicant or his/her representative must notify the Planning Office in writing that he/she wishes to withdraw the appeal.

Readopted Ordinance 3341 (1989)